

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
LACEY, WASHINGTON

IN THE MATTER OF)
THE SHIPPING CORPORATION OF)
INDIA, LTD. (MV ABUL KALAM AZAD),)
Appellant,)
v.)
PUGET SOUND AIR POLLUTION)
CONTROL AGENCY,)
Respondent.)

PCHB No. 907

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

THIS MATTER, the appeal of a \$100 civil penalty for an alleged opacity violation of respondent's Regulation I, Section 9.03(b) having come on regularly for formal hearing on the 7th day of January, 1976 in Seattle, Washington, and appellant The Shipping Corporation of India, Ltd. appearing through Michael Stream, Operating Manager of Norton Lilly and Company, Inc., and respondent Puget Sound Air Pollution Control Agency appearing through its attorney, Keith D. McGoffin with William A. Harrison, hearing examiner presiding, and Board member Walt Woodward present at the hearing, and the Board having considered the

1 exhibits, records and files herein and having reviewed the Proposed
2 Decision of the presiding officer mailed to the parties on the 27th
3 day of January, 1976, and more than twenty days having elapsed from
4 said service; and

5 The Board having received no exceptions to said Proposed Decision,
6 the appellant having paid the penalty and the Board being fully advised
7 in the premises; now therefore,

8 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that said Proposed
9 Decision containing Findings of Fact, Conclusions of Law and Order
10 dated the 27th day of January, 1976, and incorporated by this
11 reference herein and attached hereto as Exhibit A, are adopted and
12 hereby entered as the Board's Final Findings of Fact, Conclusions of
13 Law and Order herein.

14 DONE at Lacey, Washington, this 26th day of February, 1976.

15 POLLUTION CONTROL HEARINGS BOARD

16 Chris Smith
17 CHRIS SMITH, Chairman

18 W. A. Gissberg
19 W. A. GISSBERG, Member

20 Walt Woodward
21 WALT WOODWARD, Member

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26
27 FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER


CERTIFICATION OF MAILING

I, LaRene Barlin, certify that I deposited in the United States mail, copies of the foregoing document on the 21st day of February, 1976, to each of the following-named parties, at the last known post office addresses, with the proper postage affixed to the respective envelopes:

Mr. Michael Stream
Operating Manager
Norton Lilly and Company, Inc.
213 Norton Building
Seattle, Washington 98104

Mr. Keith D. McGoffin
Burkey, Marsico, Roval, McGoffin,
Turner and Mason
818 South Yakima Avenue
Tacoma, Washington 98405

Puget Sound Air Pollution
Control Agency
410 West Harrison Street
Seattle, Washington 98119



LARENE BARLIN
POLLUTION CONTROL HEARINGS BOARD

FI - FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF)
THE SHIPPING CORPORATION OF)
INDIA, LTD. (MV ABUL KALAM AZAD),)
Appellant,)
v.)
PUGET SOUND AIR POLLUTION)
CONTROL AGENCY,)
Respondent)

PCHB No. 907

PROPOSED DECISION

This matter, the appeal of a \$100 civil penalty for an alleged opacity violation of respondent's Regulation I, Section 9.03(b), came before the Pollution Control Hearings Board (Walt Woodward, Member and William A. Harrison, Hearing Examiner) at a formal hearing in the Seattle facility of the State Board of Industrial Insurance Appeals on January 7, 1976.

Appellant appeared by its representative, Michael Stream, who is an employee (Operating Manager) of Norton Lilly and Company, Inc., Seattle, Washington. Respondent appeared through its attorney, Keith

EXHIBIT A

1 D. McGoffin. Sherri Darkow, court reporter, recorded the proceedings.

2 Witnesses were sworn and testified. Exhibits were admitted.

3 From testimony heard and exhibits examined, the Pollution
4 Control Hearings Board makes these

5 FINDINGS OF FACT

6 I.

7 Respondent, pursuant to RCW 43.21B.260, has filed with this Board
8 a certified copy of its Regulation I containing respondent's regulations
9 and amendments thereto.

10 II.

11 Section 9.03(b) of respondent's Regulation I makes it unlawful
12 to cause or allow the emission of an air contaminant for a period or
13 periods aggregating more than three minutes in any one hour which
14 emission is darker in shade than that designated as No. 1 (20% density)
15 on the Ringelmann Chart, as published by the United States Bureau of
16 Mines. Section 3.29 authorizes respondent to levy a civil penalty of
17 not more than \$250 for any violation of Regulation I.

18 III.

19 On August 21, 1975, smoke from appellant's ship the MV ABUL KALAM
20 AZAD reached an opacity of No. 3-4 Ringelmann for a duration of seven
21 minutes beginning at 8:05 AM while the ship was moored at Tacoma,
22 Washington. Such smoke was caused or allowed by appellant.

23 IV.

24 In connection with the above incident, respondent served on
25 appellant Notice of Violation No. 11229, citing Section 9.03, and

-6
27 PROPOSED
DECISION

1 Notice and Order of Civil Penalty No. 2501 in the sum of \$100, which
2 is the subject of this appeal.

3 V.

4 Any Conclusion of Law hereinafter stated which is deemed to be
5 a Finding of Fact is adopted herewith as same.

6 From these facts, the Pollution Control Hearings Board comes
7 to these

8 CONCLUSIONS OF LAW

9 I.

10 Appellant was in violation of respondent's Regulation I as
11 cited in Notice of Violation No. 11229.

12 II.

13 Notice and Order of Civil Penalty No. 2501 establishes a penalty
14 in an amount which is reasonable in the circumstances of this violation.

15 III.

16 Any Finding of Fact herein which is deemed to be a Conclusion of
17 Law is adopted herewith as same

18 Therefore, the Pollution Control Hearings Board issues this

19 ORDER

20 The violation and attendant civil penalty of \$100, set out in
21 Notice and Order of Civil Penalty No. 2501, are each hereby sustained.

22 DONE at Lacey, Washington, this 27th day of January, 1976.

23 POLLUTION CONTROL HEARINGS BOARD

24 Walt Woodward
25 WALT WOODWARD, Member

26 William A. Harrison
27 WILLIAM A. HARRISON, Hearing Examiner

PROPOSED DECISION